

EXHIBIT TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT

CIVIL ACTION NO. 4:17-cv-03447

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LINDA LOZANO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.:
	)	4:17-CV-03447
LYONDELL CHEMICAL COMPANY,	)	
	)	
Defendant.	)	

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF

LINDA LOZANO

OCTOBER 16, 2018

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION of LINDA LOZANO, produced as a witness at the instance of the DEFENDANT, and duly sworn, was taken in the above-styled and numbered cause on OCTOBER 16, 2018, from 9:36 a.m. to 3:56 p.m., before Stephanie M. Harper, RPR, CSR in and for the State of Texas, recorded by machine shorthand, at the offices of KENNARD RICHARD, P.C., 2603 Augusta Drive, Suite 1450, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto; that the deposition shall be read and signed before any notary public.

JOB NO. 278823

1 Q. Okay. So what were the actual job  
2 responsibilities?

3 A. I cannot answer that because I don't have  
4 a copy with me.

5 Q. Okay. And we'll probably -- we probably  
6 have something here, and we'll get to that --

7 A. Okay.

8 Q. -- before too long.

9 And so how long were you a department  
10 assistant in the Global Projects group?

11 A. October 23, 2012, through September 4th,  
12 2015.

13 Q. Were you ever an Admin Assistant III?

14 A. That's what I was labeled at.

15 Q. Okay. So your --

16 A. That's what -- that's what the department  
17 assistants are labeled at.

18 Q. Okay. So the -- your testimony is that  
19 the department assistant position is the same  
20 position as an Administrative Assistant III?

21 MS. KRZESIENSKI: Objection.

22 A. No.

23 Q. (BY MR. HAYS) Well, I'm just -- I'm  
24 sorry. I'm just trying to understand. So you said  
25 that the Department Assistant III is -- department

1 programs as office resource secretary during the  
2 25-year --

3 A. Yeah.

4 Q. -- period?

5 Let's -- I'm still trying to figure out  
6 how to get -- so the performance evaluations that --  
7 that have been produced in this matter showed that  
8 you were an Administrative Assistant III, that that  
9 was your title. So I'm trying to figure out where  
10 the -- where the switch was made between department  
11 assistant and Administrative Assistant III.

12 So you said you joined in 2012 as a  
13 department assistant Global Projects group and at --  
14 and when did you start working for Roger Schuering?

15 A. October 2012.

16 Q. So in October of 2012 is when you first  
17 started working for Roger Schuering?

18 A. Yes.

19 Q. And at that time your position was a  
20 department assistant?

21 A. Yes.

22 Q. Were there other department assistants in  
23 the Global Projects group?

24 A. At a different level.

25 Q. Who would that --

1 A. Senior. Senior assistants.

2 Q. Okay. Who would that have been?

3 A. You want names?

4 Q. Yes.

5 A. Beverly McKenney and Estela Ponce.

6 Q. Okay. So -- and Estela Ponce was -- what  
7 was her title; do you know?

8 A. Senior assistant.

9 Q. Okay. So a senior administrative  
10 assistant?

11 A. Um-hmm.

12 Q. All right. And what was Beverly  
13 McKinney's title?

14 A. Same.

15 Q. A senior administrative assistant?

16 A. (Nodded head.)

17 Q. And your title was Admin Assistant III?

18 A. Right.

19 Q. Okay. All right. So during -- after you  
20 joined the Global Projects group in 2012, did you  
21 ever have communications with Roger Schuering where  
22 he communicated to you about your, you know, work  
23 product?

24 A. Yes.

25 Q. All right. And what types of

1 communications did you have with him about that?

2 A. In the office, his office, with HR  
3 present.

4 Q. And we might be getting into something  
5 later on, so when was that, if you remember?

6 A. Time frame?

7 Q. Yes.

8 A. Beginning January of 2013.

9 Q. So you started in October of 2012, and in  
10 January of 2013, that was the first time you  
11 remember having a meeting with Mr. Schuering and you  
12 said HR?

13 A. No. We had a meeting October, the first  
14 day I showed up to work with him.

15 Q. Okay. And what did y'all discuss in that  
16 meeting; do you remember? It was a long time ago  
17 so --

18 A. Job description.

19 Q. Okay. And what did they explain to you  
20 would be your -- what was your job description then?

21 A. It was office work, along with supporting  
22 the other two assistants, which at the time was not  
23 Beverly, but Di, and housekeeping.

24 Q. So let's break that down. What do you  
25 mean by office work? Can you be more specific than

1 office work?

2 A. Contractor files, the time, the time  
3 limitations on their work, construction report,  
4 order supplies. And if I had the sheet with me, I  
5 could read it off.

6 Q. So what do you mean by construction work?

7 A. Construction work is when you take  
8 information from the construction workers, the  
9 coordinators, and the time limitations that are  
10 going to be on the certain project in order to know  
11 how many hours you're going to have to include in  
12 the budget.

13 Q. Okay. And when you say construction  
14 workers, those are construction workers that work  
15 for Lyondell Chemical Company?

16 A. Exactly. They come in to do a turnaround,  
17 so they're there like the time of the project and  
18 then they're gone, you know. You've got S&Bs.  
19 You've got all kinds of -- Fluor Daniel. You've got  
20 several, you know, out there.

21 Q. Okay. So they're like contract  
22 construction workers from other companies?

23 A. Well, there's firms in the city of Houston  
24 that handle construction work, and by construction  
25 work is like a turnaround in a petrochemical plant,

1 they come in and build the unit.

2 Q. Okay. And so what was -- your role was  
3 managing the -- the, you know, paperwork that went  
4 along with those assignments?

5 A. Exactly.

6 Q. Okay. And what kind of -- what kind of  
7 paperwork was it that you were managing?

8 A. The hours, the time, the safety  
9 necessities. Whatever went -- the meal orders.

10 Q. So that when you say the hours and time,  
11 you are -- you are keeping track of the construction  
12 workers' timecards spent on the job?

13 A. Yes.

14 Q. Okay. And when you said "ordering," you  
15 said ordering...

16 A. Lunches.

17 Q. Lunches.

18 A. Meals. Meals.

19 Q. Okay. And you're ordering lunches for  
20 them on a daily basis?

21 A. Not necessarily.

22 Q. Okay. So what was the -- what was the --  
23 when did you order lunches for them?

24 A. When they met a safety milestone, say, 30  
25 days, 30 days, 60 days, 120 days, no accidents.



1 Q. So the Lyondell Chemical Company would  
2 coordinate a lunch for them to have a lunch for  
3 the --

4 A. Lyondell Petrochemical pays for the lunch.

5 Q. Okay. And you would be the one that  
6 helped coordinate all that?

7 A. Yes.

8 Q. So you would order the -- decide what to  
9 order, you know, put everything together and  
10 coordinate the lunch and make sure that it was  
11 delivered on time?

12 A. The manager in charge of the project would  
13 select what he wanted and sign on a piece of paper,  
14 so I was responsible for doing the work, not  
15 deciding on what to -- what they were going to eat.

16 Q. Okay. I understand. I think you also  
17 said that one of your jobs as -- starting in 2012  
18 was to order office supplies, is that correct?

19 A. Correct, yes.

20 Q. All right. And how did you go about, you  
21 know, replenishing office supplies?

22 A. You go online with whatever vendor the  
23 company is entrusted in.

24 Q. And was it just for Global Projects? I  
25 mean, who are you replenishing office supplies for?

1           A.    Global Projects and any employee that has  
2    come from another area like Mumbai employees or the  
3    Netherland employees that have come to work for the  
4    Global Projects department.

5           Q.    Were there different like areas that  
6    required you to -- you were required to check on, or  
7    was it like one specific --

8           A.    No.   Two areas.

9           Q.    Okay.  What were the two areas that you  
10   were required to maintain?

11          A.    Assign -- that I was to travel inside the  
12   plant to the Whitehouse, which was another office of  
13   Global Projects and it's called the Whitehouse, and  
14   check for supplies there.

15          Q.    Okay.  So you would check and replenish  
16   supplies at the Whitehouse, which is another part of  
17   the plant?

18          A.    Exactly, yes.

19          Q.    But separate from the Global Projects  
20   building, right?

21          A.    No, it's -- it's separate from the --  
22   there were two areas of Global Projects:  one on  
23   Sheldon Road and one inside the plant that you had  
24   to go through security.

25          Q.    Okay.  And the Whitehouse is inside the

1 plant where you had to go through security?

2 A. Yes.

3 Q. And then your -- you know, your office

4 where you typically worked out of was at the Global

5 Projects building?

6 A. Yes.

7 Q. Okay. And what other roles and  
8 responsibilities did you discuss in October 2012?

9 A. I questioned housekeeping, and very  
10 quickly I'll tell you it had on there clean the  
11 refrigerator, clean the lobby, clean the coffee bar,  
12 when we have a cleaning crew that I work very  
13 closely with. And I explained that I worked very  
14 closely with the cleaning crew. Because a lot of  
15 times you have food -- a table that they brought  
16 food in and they don't clean it and they get blamed  
17 for that. But then again if they remove the food,  
18 they get blamed that they stole the food.

19 So I worked very closely with the  
20 cleaning people, and I questioned that to  
21 Mr. Schuering about housekeeping when we had Aztec  
22 cleaning services.

23 Q. And what was his response; do you  
24 remember?

25 A. You need to take care of this, and that's

1 it.

2 Q. And by saying you need to take care of  
3 this, it meant you need to coordinate getting the  
4 cleaning done?

5 A. No, he didn't specify. He just said  
6 you're in charge of housekeeping.

7 Q. But he never said, Ms. Lozano, I need you  
8 to go take this trash and throw it away?

9 A. Oh, yes.

10 Q. Do you recall when that happened?

11 A. Well, yes.

12 Q. Can you tell me?

13 A. I can't give you an exact date.

14 Q. Was it in 2012?

15 A. 2013 too. No, 2012 it was too new. 2013.

16 Q. So what exactly did you say to  
17 Mr. Schuering about the housekeeping? You said we  
18 have a contractor, Aztec cleaning services, that  
19 performs these services?

20 A. Yes.

21 Q. And so during your time at the Global  
22 Projects group, did you coordinate cleaning services  
23 with Aztec?

24 A. Yes, I worked with them.

25 Q. Right.

1           A.    Because they always came to me because  
2    they needed a guidance way of doing things, you  
3    know, because one is telling you one thing and  
4    another one is telling you another thing.  
5    Meanwhile, the ants are climbing up the table.

6           Q.    Who do you mean one is telling you one  
7    thing, another one is telling you -- can you be a  
8    bit more specific. I'm sorry.

9           A.    The Aztec people came to me because I  
10   would direct them into you need to complete this and  
11   go ahead and do it. I'll talk to that admin  
12   assistant.

13          Q.    And so let's just -- in 2012 did you  
14   coordinate services with Aztec cleaning services?

15          A.    When I needed to.

16          Q.    Okay. And how often was that?

17          A.    When it was needed.

18          Q.    Okay. So would you say you did it on a  
19   daily basis, you would --

20          A.    No.

21          Q.    -- coordinate with Aztec?

22          A.    No.

23          Q.    Was Aztec on a contract with Lyondell?

24          A.    Yes.

25          Q.    And how long was that contract typically;

1 do you know?

2 A. No, I don't.

3 Q. Was it month to month?

4 A. No, no. They do a yearly contract as far  
5 as I remember.

6 Q. Okay.

7 A. But it depends which group they're  
8 bringing in and how the contract is based and, you  
9 know, the cost elevation, the budget, et cetera.

10 Q. And so anytime, you know, cleaning  
11 services were required, you said like ants crawling  
12 up the wall, right, if somebody in the Global  
13 Projects group said, hey, there's ants crawling up  
14 the wall in X office, then you would receive a  
15 notification about that?

16 A. Yes.

17 Q. And who would you receive that from, just  
18 whoever --

19 A. The admin assistants.

20 Q. Okay. So from, I think you said Di at the  
21 time or Beverly McKenney?

22 A. Um-hmm.

23 Q. And they would send you a message and say,  
24 hey, there's ants in this office?

25 A. Yes.

1 Q. And then what would you do next?

2 A. Contact facility services.

3 Q. Okay. And then what was the -- kind of  
4 walk me through the rest of the process to how Aztec  
5 would eventually show up or how the situation was  
6 resolved.

7 A. The person would come in -- since I had  
8 contact with them, the person would come in, and  
9 we'd talk to the area that needed cleaning up, and  
10 that's the way it was taken care of.

11 Q. And Aztec -- so aside from maybe like ants  
12 on the wall or spiders in the ceiling or whatever,  
13 right, they also had, you know, daily assignments  
14 that they carried out in the office; is that  
15 correct?

16 A. Yes.

17 Q. And so they would -- what were their  
18 assignments; what was their responsibility?

19 A. Aztec assignments?

20 Q. Yes.

21 A. Well, the vacuuming and the cleaning.

22 Q. So --

23 A. But that was their department. That was  
24 not my department. I just handled it when they came  
25 to me and they had a question about what do we do in

1 A. Correct, yes.

2 Q. And so your testimony is that somebody  
3 explained to you that you needed to go buy those  
4 supplies and bring them back to the office?

5 A. Um-hmm. Yes.

6 Q. And who was it that told you that?

7 A. Estela Ponce.

8 Q. Okay.

9 A. But she was contract at the time, so she  
10 -- you know, she didn't mind traveling everywhere.

11 Q. Okay. Was she your supervisor?

12 A. No.

13 Q. Did you report to Ms. Ponce?

14 A. No.

15 Q. Was it typical that Ms. Ponce would direct  
16 your work?

17 A. Well, she handed out a lot of material for  
18 me to do, as print this manual. Not my supervisor.  
19 She didn't get hired until August of 2014.

20 Q. And so Estela Ponce told you, hey, you've  
21 got to go out and buy all this stuff for supply?

22 A. Drinks.

23 Q. Drinks and bring it back to the office?

24 A. Um-hmm.

25 Q. And you said no, we have a vendor to do



1 2013?

2 A. The answer is yes, at the service center.

3 Q. Okay. So this is the same -- same role as  
4 you had in 2013?

5 A. Correct.

6 Q. Okay. And then the next bullet point is  
7 coordinate facilities service needs for the Global  
8 Projects service center?

9 A. Correct.

10 Q. Okay. Were you doing that in 2013 as  
11 well?

12 A. Yes.

13 Q. And you would -- last one is schedule  
14 reserve meeting rooms as required for the group.

15 Do you know who the -- who's the group  
16 referred to in this list?

17 A. The group is -- is referred to the Global  
18 Projects group and any contractor on-site.

19 Q. Okay. So that's like the Fluor  
20 Enterprises or whoever --

21 A. No, no, no. Any contractor on-site doing  
22 design work in the office.

23 Q. Okay. So you had -- you had contract  
24 workers inside the Global Projects service center  
25 that were working on different projects at various

1 times?

2 A. Exactly, yes.

3 Q. Okay. And so you had to schedule and  
4 reserve meeting rooms for them?

5 A. Yes.

6 Q. Okay. And was that something you were  
7 also doing in 2013?

8 A. Yes.

9 Q. Okay. And I guess we started in the  
10 middle of the list so we skipped a couple but the  
11 first two bullet points, the top one is order  
12 supplies for Global Projects, including the services  
13 building and the Global Projects building and the  
14 Whitehouse, right?

15 A. Correct.

16 Q. And is that something that you were doing  
17 in 2013 also?

18 A. No.

19 Q. Okay. So what -- what was the -- I mean,  
20 we say order supplies here a few times. What's the  
21 -- here you say, no, I wasn't doing this in 2013.  
22 So what was new about this -- this bullet point that  
23 you were required to do?

24 A. The inclusion of the Whitehouse at another  
25 location, that's what's new in this paper right

1 represent to you that that's what the -- that's what  
2 the -- the document says.

3 And then that later, you know, the  
4 company gave you an additional week to complete that  
5 assignment. They said, okay, well, you know, if you  
6 can have it done -- try to have it done by the 14th  
7 of April, okay, and that's also in the information  
8 that we've produced in this matter.

9 However, you -- I mean, you did complete it,  
10 and you completed it before the extended deadline,  
11 but would you -- is it fair to say that the company  
12 worked with you to try to help you give you time to  
13 complete the projects on --

14 A. No.

15 Q. -- your action plan?

16 A. No.

17 Q. Well, it kind of sounds like they were, to  
18 me, based on the emails.

19 So how were they not helpful?

20 MS. KRZESIENSKI: Objection; form.

21 A. I don't recall. So it's a no. The  
22 company did not.

23 Q. (BY MR. HAYS) So the company didn't  
24 extend your deadlines during your action plan in  
25 order to accommodate your ability to, you know,

1 complete the assignments?

2 MS. KRZESIENSKI: Objection.

3 A. I don't recall that.

4 Q. (BY MR. HAYS) But you also can't recall a  
5 specific instance where the company was -- you know,  
6 wasn't helpful; is that right?

7 MS. KRZESIENSKI: Objection.

8 A. No.

9 Q. (BY MR. HAYS) So I believe your next  
10 progress meeting was scheduled for April 21st. Do  
11 you know one way or another?

12 A. No.

13 Q. Okay. Let me see if I can find it. Let's  
14 move off of -- move off the progress meetings for a  
15 second.

16 Would you say that you had difficulty  
17 completing any of the assignments on your  
18 performance improvement action plan on Exhibit 4?

19 A. Yes.

20 Q. Can you identify which ones you had  
21 difficulty completing?

22 A. No.

23 Q. No. You just recall generally that some  
24 of it was -- was difficult for you to do?

25 A. Yes.

1 Q. Is there a particular reason why one of  
2 these assignments was more difficult than another?

3 MS. KRZESIENSKI: Objection; form.

4 A. I don't recall.

5 Q. (BY MR. HAYS) At some point during your  
6 performance improvement plan, you took a vacation.

7 Do you remember that?

8 A. Yes.

9 Q. Okay. I think it was in May of 2015  
10 perhaps, or was it in June?

11 A. Of what year?

12 Q. Of 2015?

13 A. No.

14 Q. Well, the performance improvement plan  
15 was -- was scheduled to go from March 10th until  
16 June 12th of 2015, correct?

17 A. Correct.

18 Q. And at some point in that -- in that span  
19 of time, you took a week-long vacation from work,  
20 and there was a -- you had a back-and-forth with  
21 Mr. Schuering about it, you were gone for about a  
22 week. He asked you to, you know, put in a vacation  
23 request, and you did so?

24 A. Yes.

25 Q. Yeah. And then as a result of that

1 vacation, the company extended the deadline for your  
2 performance improvement plan again because they  
3 wanted to make sure that after you returned from  
4 your vacation you had enough time to finish all the  
5 assignments, correct?

6 MS. KRZESIENSKI: Objection.

7 A. I don't recall that.

8 Q. (BY MR. HAYS) Well, I'll represent to you  
9 that when you -- when you requested the vacation,  
10 the company gave you an additional seven days and  
11 extended your performance improvement plan deadline  
12 to June 19th, 2015. Do you recall having any  
13 progress meetings after you returned from vacation  
14 but before you started your FMLA -- FMLA leave?

15 A. No.

16 Q. Did you -- do you recall what date your  
17 FMLA leave started?

18 A. June the 18th.

19 Q. Okay. And then so the day before the  
20 extended PIP, performance improvement plan, was set  
21 to expire, correct?

22 A. I don't know.

23 Q. Okay. So the company, like I said, the  
24 company extended your deadline for the performance  
25 improvement plan to June 19th, and you started your

1 Q. You did question what?

2 A. PIP.

3 Q. You questioned your performance  
4 improvement plan?

5 A. My performance improvement plan.

6 Q. But you can't recall what exactly you  
7 questioned?

8 A. No. I don't have notes with me.

9 Q. Was it a question about what you were  
10 supposed to do on the performance improvement plan?

11 A. No. I don't recall.

12 Q. Do you recall whether it was, you know,  
13 some type of, you know, complaint that the, you  
14 know, performance improvement plan was unfair to you  
15 in some way?

16 A. No.

17 Q. But you asked questions about the  
18 performance improvement plan at some point during  
19 that meeting?

20 MS. KRZESIENSKI: Objection; asked and  
21 answered.

22 A. I don't recall.

23 Q. (BY MR. HAYS) Okay. All right. So that  
24 was the -- that was the first scheduled update  
25 meeting for your performance improvement plan, was

1 April 7th.

2 The next one was scheduled for 14 days  
3 later on April 21st. Do you recall attending the  
4 April 21st performance improvement plan meeting?

5 A. Yes.

6 Q. Yes. And do you recall the substances of  
7 that meeting?

8 A. No.

9 Q. No? The -- did you -- do you have any  
10 recollection about the projects that you discussed  
11 or what steps in the performance improvement plan  
12 you had completed at that point?

13 A. No, I do not recall.

14 Q. And during that meeting did you make any  
15 kind of complaints about, you know, the -- that the  
16 PIP was somehow unfair to you?

17 A. I don't recall.

18 Q. I think the next meeting was on May 8th,  
19 2015. So the next PIP meeting was on May 8th, 2015,  
20 and same questions, do you recall attending the May  
21 8th, 2015 meeting?

22 A. Yes, I remember attending the meeting.

23 Q. Okay. And do you recall the -- you know,  
24 the substances of that meeting, what you discussed  
25 during that meeting?



1 A. No, I don't.

2 Q. No. And during that meeting on May 8th,  
3 2015, do you remember or did you make any comments  
4 to Mr. Schuering or Ms. Silvagnoli about the  
5 substance of your performance improvement plan?

6 A. I don't recall.

7 Q. Do you recall whether or not you  
8 complained that it was unfair to you?

9 A. I don't recall that.

10 Q. Okay. I think the next regularly  
11 scheduled meeting was extended to accommodate for  
12 your vacation, and so there was supposed to be a  
13 June 2nd meeting that never occurred because that  
14 was during your vacation that we talked about  
15 earlier.

16 And that also is where the deadlines for  
17 your performance improvement plan were extended to  
18 June 19th.

19 And then I think we established earlier  
20 too that you left on approved FMLA leave around June  
21 16th and then the next progress meeting didn't occur  
22 until August 22nd, 2015. Do you recall -- I think  
23 you testified previously that you recalled having a  
24 meeting with Ms. Silvagnoli on August 26th about the  
25 progress of your performance improvement plan; is

1 while standing near your desk said, hey, I did an  
2 investigation?

3 MS. KRZESIENSKI: Objection.

4 A. That's all I recall.

5 Q. (BY MR. HAYS) Did you ask any questions  
6 to Ms. Silvagnoli when she stopped by your desk and  
7 said we did an investigation into your claims of age  
8 and race discrimination?

9 A. Yes.

10 Q. And what did you ask her?

11 A. Who are the lawyers you talked to.

12 Q. And what was her response?

13 A. Downtown. And that was it.

14 Q. You didn't ask her any other questions?

15 A. No, sir.

16 Q. You didn't -- I mean, it -- so far you've  
17 testified that you don't recall ever claiming that  
18 you were being discriminated against based on your  
19 race and your age; is that correct?

20 A. Correct.

21 Q. And then Angela Silvagnoli stops by your  
22 desk and says that she's done an investigation into  
23 your claims of age and race discrimination and you  
24 didn't -- I mean, that would -- you didn't ask any  
25 questions about why she did the investigation?

1 there would be an investigation into why these  
2 individuals are pinpointing you if you didn't make  
3 any allegations against them?

4 MS. KRZESIENSKI: Objection; form.

5 A. No.

6 Q. (BY MR. HAYS) And if these other  
7 individuals were potentially, I think,  
8 discriminating against you or pinpointing you, how  
9 come it is that only Mr. Schuering is named in your  
10 complaint?

11 A. He's the boss for me.

12 Q. So. So Mr. Schuering is Pat McFall's  
13 boss?

14 A. No. Mr. Tripp is the overall boss.

15 Q. But --

16 A. Mr. Schuering was my boss.

17 Q. So is it your testimony that Mr. Albosta  
18 and Mr. McFall never discriminated against you?

19 A. Correct.

20 Q. So the only person that you're -- that  
21 you're identifying that's discriminated against you  
22 is Mr. Schuering; is that correct?

23 A. Yes.

24 Q. Okay. Did anybody else ever witness the  
25 discrimination that you've described so far here

1 today during your testimony?

2 A. Not that I recall.

3 Q. In your answers or interrogatories, we  
4 asked you specifically whether or not there are  
5 potential witnesses to support your contention that  
6 Mr. Schuering treated you differently and less  
7 favorable than those employees that were younger  
8 than you and not Hispanic, and you answered with a  
9 number of individuals, including William Gallagher.

10 Does William Gallagher ring a bell to  
11 you?

12 A. Yes.

13 Q. And who is William Gallagher?

14 A. William -- project manager for the HBIB  
15 project of 2013.

16 Q. Okay.

17 A. Who I worked directly with too.

18 Q. Okay. And so he potentially witnessed you  
19 being treated differently than younger, non-Hispanic  
20 employees?

21 A. Yes.

22 Q. And when did that potentially occur?

23 A. I don't recall.

24 Q. What about Kwan Molten? Does that name  
25 ring a bell?

1 A. Kwan Molten?

2 Q. Um-hmm.

3 A. Yes.

4 Q. And who is Mr. Molten?

5 A. He's no longer at the company.

6 Q. Okay. But who was he while you were  
7 employed at --

8 A. He worked as a project manager.

9 Q. And you allege that he -- or you contend  
10 that he also potentially witnessed Mr. Schuering  
11 treating you differently --

12 A. Yes.

13 Q. -- and less favorably than younger,  
14 non-Hispanic employees?

15 A. Yes.

16 Q. And same thing for Steven Rhea; is that  
17 right?

18 A. Steven Rhea.

19 Q. Steven Rhea?

20 A. Steven Rhea.

21 Q. Who's Steven Rhea?

22 A. Steven Rhea is the technical quality  
23 assurance manager, still at the company.

24 Q. And how do you know he's still at the  
25 company?

1 A. He -- you know that LinkedIn?

2 Q. Um-hmm. Love it. I'm on it all the time.

3 A. Okay. Okay. Everybody's on LinkedIn, you  
4 know, like, and so he's still there.

5 Q. Okay. All right. And you contend that he  
6 witnessed Mr. Schuering treating you differently  
7 than younger, non-Hispanic employees?

8 A. Yes.

9 Q. Do you recall when that happened?

10 A. No, sir.

11 Q. And what is the basis for your contention  
12 that these three individuals potentially saw you or  
13 witnessed Mr. Schuering treating you differently  
14 than younger, non-Hispanic employees?

15 A. We worked on all the projects together.

16 Q. And so since you worked closely together,  
17 certainly they must have seen it?

18 MS. KRZESIENSKI: Objection.

19 A. Yes.

20 Q. (BY MR. HAYS) Did you ever talk to either  
21 of these individuals about Mr. Schuering treating  
22 you differently than --

23 A. No.

24 Q. -- other employees?

25 A. No.

1 A. I have no answer to that.

2 Q. Did Roger Schuering also retaliate against  
3 you for taking FMLA leave?

4 A. Yes.

5 Q. Is it not true that your contention is  
6 that you were retaliated against because you weren't  
7 provided sufficient enough time to meet your PIP  
8 requirements?

9 A. Correct.

10 Q. Okay. Because that's what you answered in  
11 our interrogatories?

12 A. Yes.

13 Q. All right. But -- okay.

14 Who do you allege was treated differently  
15 than you, let's say, based on your age first?

16 A. For better or worse? What's your --  
17 direct the question, like, what do you mean?

18 Q. Okay. Sure. So you contend that other  
19 employees were treated better than you because they  
20 were younger and non-Hispanic, correct?

21 A. Correct.

22 Q. Okay. So the question is: Name an  
23 employee that was treated better than you because  
24 they were younger?

25 A. That person's no longer there.

1 Q. Okay. But who was it?

2 A. I don't recall her name.

3 Q. And what was her position?

4 A. Contract employee.

5 Q. And what type of contract employee?

6 A. Office administration.

7 Q. And office administration for what group?

8 A. For constructions.

9 Q. So --

10 A. Turnarounds.

11 Q. But she wasn't employed by Lyondell

12 Chemical Company?

13 A. No.

14 Q. No. And she wasn't doing the same job as

15 you were?

16 A. In some areas, yes.

17 Q. Okay. How were her jobs similar to yours?

18 A. Office, office work.

19 Q. What do you mean by office work?

20 A. Typing, letter, supplies, setting up

21 meetings, setting up lunches.

22 Q. Did y'all work for the same individuals,

23 or did you have different supervisors?

24 A. Different supervisors.

25 Q. So did you create material and work



1 product for the same supervisors at some point or  
2 the same managers?

3 A. No.

4 Q. No. Did she report to the same manager as  
5 you did for any of her assignments?

6 A. No.

7 Q. But she was -- you contend she was similar  
8 to you because she did a lot of the same type of  
9 work. She did office work with reports and using  
10 Excel to create, you know, trackers or making  
11 PowerPoint presentations; is that right?

12 MS. KRZESIENSKI: Objection.

13 A. I do not recall what she did, but I know  
14 what I did.

15 Q. (BY MR. HAYS) Okay. But so -- but you  
16 recall -- you don't remember her name but you --

17 A. No.

18 Q. All you recall is she was younger than  
19 you?

20 A. Yes.

21 Q. And this was in what year?

22 A. 2015.

23 Q. What month in 2015?

24 A. I don't recall.

25 Q. And you don't recall a specific instance

1 in 2015 where that individual was treated better  
2 than you?

3 A. No, sir.

4 Q. Do you know what her age was?

5 A. Early 30s maybe.

6 Q. What's the basis for that? Just a guess?

7 MS. KRZESIENSKI: Objection.

8 A. I don't -- I cannot answer that.

9 Q. (BY MR. HAYS) Okay. And what about  
10 individuals that were treated better than you based  
11 on their race? That's another one of your  
12 allegations, correct, that people were treated  
13 better than you that weren't -- that were  
14 non-Hispanic; is that correct?

15 A. Correct.

16 Q. And who was the individual that was  
17 treated better than you because they were  
18 non-Hispanic?

19 A. I don't recall her name.

20 Q. And was it the same individual who we were  
21 previously discussing about age?

22 A. No.

23 Q. Okay. So a different individual than who  
24 we previously just discussed about age  
25 discrimination?

1 A. Yes.

2 Q. Okay. And what was the position of the  
3 person you contend was treated better than you  
4 because they were not Hispanic?

5 A. Admin assistant.

6 Q. And was she an employee or a contractor?

7 A. Contractor.

8 Q. And how -- what year was it?

9 A. I don't recall the year.

10 Q. Do you recall a specific instance where  
11 she was -- it was -- it was a woman, you said?

12 A. Yes, sir.

13 Q. And do you recall an instance where she  
14 was treated differently than you because of her  
15 race?

16 A. No, I don't recall.

17 Q. Do you recall since she was a contractor,  
18 did y'all have similar job duties?

19 A. Yes, sir.

20 Q. And what were the similarities in your job  
21 duties?

22 A. Same office work.

23 Q. So compiling reports?

24 A. Exactly.

25 Q. Creating presentations?

1 A. Um-hmm.

2 Q. Submitting trackers to your supervisors,  
3 that sound --

4 A. General --

5 Q. -- appropriate?

6 A. General office work.

7 Q. Okay. But you had additional duties that  
8 she probably didn't have, right?

9 MS. KRZESIENSKI: Objection.

10 A. Yes.

11 Q. (BY MR. HAYS) And you reported to a  
12 different supervisor, correct?

13 A. Correct.

14 Q. And y'all didn't work together. You and  
15 this individual didn't work together on projects  
16 that were submitted to the same, you know, manager  
17 or director or group; is that correct?

18 A. No, that's not correct.

19 Q. Okay. So what's not correct about that  
20 statement?

21 A. At one time or another, you had to work  
22 together.

23 Q. Okay. Work together on what?

24 A. A project.

25 Q. What type of projects?

1 A. Turnaround projects.

2 Q. Okay. So you, like, worked together on  
3 the same spreadsheet?

4 A. No.

5 Q. Work together on the same schedule?

6 A. No.

7 Q. So how do you -- how do you quantify that  
8 you were working together? What do you mean by  
9 working together?

10 A. The report coming in from the turnaround  
11 sent to me and I documented it.

12 Q. Okay. So you received information from  
13 that individual on the projects that they were  
14 working on?

15 A. Updates, yes.

16 Q. And then what did you do with those  
17 updates?

18 A. Transfer them to the report.

19 Q. Okay.

20 A. And submit it.

21 Q. But you did testify that y'all had  
22 different supervisors. You didn't report to the  
23 same people, right?

24 A. Yes.

25 Q. Okay. Is there anyone else that you

1 A. No.

2 Q. Okay. Do you contend that Estela Ponce  
3 was treated differently than you?

4 A. Yes.

5 Q. How so?

6 A. As a contract employee, the privileges,  
7 cell phone, vehicle, et cetera.

8 Q. So you're saying that when Ms. Ponce was a  
9 contract employee, she was treated more favorably  
10 than you because some of the rules that applied to  
11 you did not apply to her?

12 A. Correct.

13 Q. Anything else?

14 A. No, sir.

15 Q. But after a certain period of time, I  
16 think probably in 2013, Ms. Ponce was hired by the  
17 company, correct?

18 A. No. August 2014.

19 Q. August 2014?

20 A. Yes.

21 Q. She takes a -- she was hired as a senior  
22 administrative assistant; is that correct?

23 A. Yes.

24 Q. Okay. Any time after August of 2014 after  
25 she was no longer a contractor that you feel like

1 she was treated more favorably than you?

2 A. Yes.

3 Q. And can you give me an example?

4 A. The assignments that came with it. I was  
5 given every assignment that she didn't want to do.

6 Q. So your testimony is that she was treated  
7 more favorably because she was able to pass off  
8 assignments that she did not want to do to you?

9 A. Correct.

10 Q. Was she directing the reassignment, or was  
11 somebody else redirecting the reassignment?

12 A. I don't understand what you're trying  
13 to --

14 Q. So was Ms. Ponce, was she just saying,  
15 hey, I need some help with these assignments; I  
16 can't cover down on all of this at once; can you  
17 help me with X, X, and X?

18 Was she sending you an email directly?

19 A. No.

20 Q. And how did you receive assignments that  
21 --

22 A. Walked it into the office and put it on my  
23 desk.

24 Q. Who is that?

25 A. Estela.

1 Q. So she would just take an assignment and  
2 bring it in to you and say, hey, I need you to do  
3 this?

4 A. Here's a 3-inch manual. We need ten  
5 copies.

6 Q. Okay. Is that the only basis for your  
7 contention that she was treated better than you?

8 A. No.

9 Q. So what else is the basis for your  
10 allegation that she was treated better than you?

11 A. I'm not going to elaborate on any because  
12 I don't recall specifically unless I would have my  
13 notes.

14 Q. Are those the notes that you've been  
15 keeping while we've been talking today?

16 A. I'm writing down things that you have been  
17 talking about.

18 Q. Are there notes in there that would help  
19 you recall what I'm asking you right now?

20 A. I -- if I wrote them down, yes.

21 Q. So there's potentially something in there  
22 about how Ms. Ponce was treated better than you that  
23 you've written down in that notebook --

24 A. No.

25 Q. -- that's sitting right there next to you?



1 Q. (BY MR. HAYS) So like a diary almost?

2 A. No.

3 Q. So when you were at work, would you take  
4 time and sit down and write down what was happening  
5 to you at work?

6 A. No.

7 Q. So how -- when did you create the notes?

8 A. In a staff meeting.

9 Q. So while you were in a staff meeting, you  
10 created notes about Ms. Ponce being treated  
11 differently --

12 A. No.

13 Q. -- than you?

14 A. No.

15 Q. Okay. So when did you create the notes  
16 that we're talking about that potentially relate to  
17 your allegations?

18 A. You jot down things, you know, as you go  
19 and that's it. But then again, I don't know where  
20 they are.

21 Q. Okay. So aside from what may be in your  
22 notes, you can't recall anything else here today or  
23 any other circumstance sitting here today where  
24 Ms. Ponce was treated more favorably than you?

25 A. No, sir.

1 Q. Other than what you've already testified  
2 about?

3 A. No.

4 Q. Okay. Did you and Ms. Ponce report to the  
5 same people?

6 A. No.

7 Q. Did y'all have the same assignments or job  
8 duties?

9 A. No.

10 Q. And she was -- we've already established  
11 she was a -- she was an administrative assistant,  
12 but she was one step up, I think, a senior  
13 administrative assistant; is that correct?

14 A. As of 2014, yes.

15 Q. After she was hired, right?

16 A. Correct, yes.

17 Q. Okay. Can I see what you've been writing  
18 down on those notes today?

19 A. Sure. (Tenders documents.) Here you go,  
20 starting there.

21 Q. All right.

22 MR. HAYS: Do you want to just go off  
23 the record real quick --

24 MS. KRZESIENSKI: Um-hmm.

25 MR. HAYS: -- while I take a look and

1 you need to be put on the PIP.

2 Q. Okay. So in 2014 you had a meeting with  
3 Mr. Schuering, and he said if you don't improve your  
4 performance, we're going to have to put you on a  
5 performance improvement plan?

6 A. This was December 2014.

7 Q. Okay. And then I think it says -- what's  
8 this underlined word underneath 2014? What does  
9 that say?

10 A. The scenario, I'm just kind of setting up  
11 the scenario, how the statement came to be.

12 Q. Okay. And so in this scenario, I think  
13 underneath that it says "statement?"

14 A. Yes.

15 Q. And are you -- you have something in  
16 quotes here, at least you have the beginning of it  
17 in quotes. Who are you saying -- who are you  
18 quoting as making this statement?

19 A. Mr. Roger Schuering at the top.

20 Q. And can you -- so these notes say that --  
21 or I guess contain your allegation that  
22 Mr. Schuering stated to you during a meeting in  
23 December of 2012, quote, Diana tells me you are  
24 unskilled. And then there's something crossed out  
25 and it says, "know about office work," period.

1 A. This was 2014.

2 Q. Okay.

3 A. Two years. You're unskilled, and you  
4 don't know about office work. That's the -- that's  
5 what's on there.

6 Q. Okay. And so then I guess underneath  
7 "work," it says, "my question is." Are you saying  
8 this is your question?

9 A. Yes.

10 Q. Okay. And what is your question?

11 A. Diane retired two years ago. Why would  
12 she be involved in comments about my work?

13 Q. Okay. And what did Mr. Schuering say to  
14 that?

15 A. His answer, we met outside the company to  
16 -- or it meant like they met outside the company.  
17 And in the conversation she told me you need much.  
18 I don't remember what the much was, but that's all I  
19 remember.

20 Q. So all of -- all of this that's written on  
21 Page 4 starting at "Mr. Schuering in 2014 with PIP,"  
22 everything down from that point carrying over to  
23 Page 5 at the top, you created these notes last  
24 night. And it is what you allege to be  
25 Mr. Schuering discriminating against you based on

1 your age and your race; is that correct?

2 A. Correct. But I already had these  
3 meeting -- these notes, I just copied them to the  
4 new notebook.

5 Q. So these are copied from another set of  
6 notes you have?

7 A. Right. The ones I shredded last night.

8 Q. So you shredded all your notes last night?

9 A. Whatever I had copy -- was copying on  
10 here, yes, I shredded them.

11 Q. Are there other notes that you didn't  
12 shred?

13 A. I don't know. I'll have to look.

14 Q. Well, why -- why -- why would you copy the  
15 notes into a different notebook -- or notebook,  
16 yeah, and then shred them?

17 A. Because the other notebook was so flimsy  
18 and all the pages were already torn up. I had them  
19 in the garage in a box, and they were all wrinkled,  
20 and it was -- it wasn't a good copy.

21 Q. So how did you get an accurate copy on  
22 here if it wasn't a good copy?

23 A. I looked at what I wrote down and wrote it  
24 over here.

25 Q. So if you could do that there, then why

1 wouldn't you just bring that here and look at the  
2 original copy?

3 A. I don't know. I couldn't answer that.

4 Q. What else did you shred last night?

5 A. Old mail. Old business cards I had.

6 Q. Is it your normal practice to shred  
7 things?

8 A. Yes.

9 Q. How often do you conduct these shredding?

10 A. Every couple of months.

11 Q. Is it often that you shred your notes from  
12 -- that you took while you were with your employer  
13 from 2014?

14 A. Those that I don't want to see, yes.

15 Q. Did you copy everything in the notebook  
16 that you shredded?

17 A. It wasn't a notebook. It was just sheets  
18 of paper like this.

19 Q. I thought you said it was a big, flimsy  
20 notebook that had been --

21 A. No. Well, the flimsy notebook at the --  
22 the binder was already all cut up, you know, but it  
23 didn't have much in there. It had like a lot of  
24 folders, you know, the yellow, green, blue folders,  
25 and that's it.

1 Q. So whatever the contents that was in  
2 there, you shredded all of it though, correct?

3 A. Correct.

4 Q. And did you copy everything that was  
5 contained in that notebook into this notebook that  
6 we're looking at right now?

7 A. Only what's pertaining information that I  
8 wanted to remember but --

9 Q. Well, what was -- what else was in that  
10 notebook?

11 A. Vacation schedules of people that I had no  
12 reason to keep, emergency exits, emergency logs that  
13 you keep of employees to know where they're going to  
14 go in case of an emergency. A hurricane, say, in  
15 June, you always write down the employees and have a  
16 contact number. I don't need all that information.

17 Anniversaries of the employees. I don't  
18 need that.

19 Q. Okay. And, I mean, I guess I would  
20 generally agree with you you don't need it. But I'm  
21 wondering what prompted you last night to start  
22 shredding it?

23 A. I had to kill time because you're coming  
24 to a deposition and your mind is rolling, rolling,  
25 you know.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LINDA LOZANO, )  
)  
Plaintiff, )  
)  
v. ) CIVIL ACTION NO.:  
) 4:17-CV-03447  
LYONDELL CHEMICAL COMPANY, )  
)  
Defendant. )

\*\*\*\*\*

THE STATE OF TEXAS :

COUNTY OF HARRIS :

I, Stephanie M. Harper, a Certified Shorthand  
Reporter in and for the State of Texas, hereby  
certify to the following:

That the witness, LINDA LOZANO, was duly sworn  
by the officer and that the transcript of the oral  
deposition is a true record of the testimony given  
by the witness;

That the deposition transcript was submitted  
on \_\_\_\_\_, 2018, to the witness, or to the  
attorney for the witness, for examination,  
signature, and return to U.S. Legal Support, Inc.,  
by \_\_\_\_\_, 2018;

That the amount of time used by each party at  
the deposition is as follows:



MS. LAURA KRZESIENSKI - 00:00  
MS. MARLENE C. WILLIAMS - 00:00  
MR. JOHN T. HAYS - 03:52  
MS. MAYRA O. CUELLO - 00:00

I further certify that I am neither counsel  
for, related to, nor employed by any of the parties  
or attorneys in the action in which this proceeding  
was taken, and further that I am not financially or  
otherwise interested in the outcome of the action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on  
this, the 23rd day of October, 2018.



---

STEPHANIE M. HARPER, CSR  
Certification No.: 7433  
Expiration Date: 12-31-18

U.S. Legal Support, Inc.  
Firm Registration No. 122  
16825 Northchase Drive  
Suite 800  
Houston, Texas 77060  
713/653-7100

JOB NO. 278823 [LOZANO]